IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.272 OF 1995.

Mahant Shamaldas Guru Kamaldas : Appellant.

versus

Shridhar Nilkanth Sabnis & Anr. : Respondents.

Mr.Y.S.Jahagirdar with Mr.Nitin Jamdar for the appellant.

Mr.R.S.Apte for Respondent No.1.

CORAM : D.G.DESHPANDE,J.

DATED : 24th February 2005.

ORAL ORDER

1. This appeal arises out of the order of District Judge, Thane. According to the appellant, the District Judge considered only one document that was tendered by the respondent. The appellant has filed a bunch of documents in this appeal which were admittedly not produced

before the District Judge. In view of this fact, it is necessary to remand the matter to the District Judge by setting aside the impugned order. Copies of all the documents, which the appellant has filed, shall be tendered before the District Judge. The respondents will be at liberty to file any more additional document and, then the District Judge will decide the issue within a period of four months from the receipt of this order. the District Judge may permit the parties to lead oral evidence if necessary, but all the documents tendered by the parties will be considered for decision. The statement made by the advocate for the appellant to continue for a period of four months and 15 days thereafter i.e. 15 days after pronouncement of order. Scope of the enquiry is to decide, whether it is a public trust or private trust with reference to the documents, materials, arguments and submissions. R & P should be sent back to the District Judge, Thane along with the copy of this appeal.

[D.G.DESHPANDE]

24/02/2005 JUDGE.